

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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J&B Wholesale Distributing, Inc.,  
a Minnesota corporation,

COURT FILE NO. 07-4570 (MJD/SRN)

v.

Plaintiff,

**TEMPORARY RESTRAINING  
ORDER**

Redux Beverages, LLC, Redux Inc.,  
Redux, LLC, and James Kirby,

Defendants.

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The above-entitled matter came on for hearing before The Honorable Michael J. Davis, Judge of U.S. District Court, on the 7th day of December, 2007, on plaintiff's Motion for a Preliminary Injunction, pursuant to Fed. R. Civ. P. 65(a), and on defendants' Motions (1) to Lift the Default of Defendants' Redux Beverages, LLC, Redux, LLC, and James Kirby, (2) to Permit the Filing of Answers by Defendants' Redux Beverages, LLC, Redux, LLC, and James Kirby and (3) to Permit the Late Filing of a Memorandum and Declarations in Opposition to Plaintiff's Motion for a Preliminary Injunction.

Thomas J. Shroyer, Esq., and Marcy R. Frost, Esq., appeared on behalf of plaintiff.

Clegg Ivey, Esq., and John B. Lunseth II, Esq., appeared on behalf of defendants.

Now, based upon the arguments of counsel, the pleadings, memoranda and all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED that:

1. Defendants' motions are GRANTED, provided that the Court hereby accepts defendants' submissions filed on December 6, 2007, as their final written submission in opposition to the Plaintiff's Motion for a Preliminary Injunction;

2. In return for granting defendants' motions, the parties stipulated to converting the December 7, 2007 hearing into a Motion by plaintiff for a Temporary Restraining Order with Notice, under Fed. R. Civ. P. 65(b).

3. Plaintiff shall have until December 14, 2007, in which to make its further written submissions in support of its Motion for a Preliminary Injunction.

4. It is further ordered that Plaintiff's Motion for a Preliminary Injunction shall be heard by the undersigned on December 18, 2007, at 9:30 a.m.

5. The Court will award plaintiff attorneys' fees incurred in preparing for and attending the hearing on December 7, 2007. Plaintiff shall submit an affidavit setting forth the fees incurred.

On Plaintiff's Motion for a Temporary Restraining Order under Fed. R. Civ. P. 65(b),

THE COURT HEREBY FINDS:

1. This Court has subject matter jurisdiction over this matter and personal jurisdiction over defendants.

2. The Defendants received timely and adequate notice of the Motion for a Temporary Restraining Order.

3. Plaintiff clearly established from specific facts shown by affidavit that (a) immediate and irreparable injury will result to plaintiff if the Court does not temporarily restrain defendants as provided herein, until the matter is submitted on plaintiff's motion for a preliminary injunction, (b) the threat of harm to plaintiff is irreparable and the balance of harm supports the granting of the order to preserve the status quo, (c) plaintiff is likely to prevail on the merits of the claims asserted in the complaint, (d) public policy favors the granting of the order to preserve the status quo, and (d) the issuance of the restraining order will not create any significant administrative burdens.

4. The issuance of this temporary restraining order is necessary to preserve the status quo between the parties.

NOW, THEREFORE, IT IS HEREBY ORDERED that pending further order of the Court:

1. Defendants, their officers, agents, partners, employees and all others in active concert or participation with them are enjoined and restrained from:

(a) Selling, offering to sell or advertising any products bearing or

identified by plaintiff's trademarks or elements thereof;

(b) Employing, publishing or using any Internet domain names that include or mention plaintiff's trademarks or elements thereof, including, but not limited to, "www.drinknoname.com" and "www.drinknonameshop.com."

2. This temporary restraint is issued on condition that a bond be filed by plaintiff in the sum of \$ 1,000.00 on the condition that, if a temporary restraining order

shall issue, plaintiff will pay to defendants such damages, not exceeding the sum of \$1,000.00, as defendants may sustain by reason of the temporary restraining order, should the Court finally decide that plaintiff was not entitled to it.

Issued on this 7<sup>th</sup> day of December, 2007.

BY THE COURT:

s / Michael J. Davis  
Michael J. Davis  
Judge of District Court